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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,392	06/19/2006	Gary Wingett	042933/311926	8170

826 7590 11/28/2008  
ALSTON & BIRD LLP  
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CHARLOTTE, NC 28280-4000

EXAMINER
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FISHMAN, MARINA

ART UNIT	PAPER NUMBER
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2832

MAIL DATE	DELIVERY MODE
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11/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/583,392	WINGETT, GARY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marina Fishman	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *General status*

1. This is a Final Action on the Merits for RCE. Claims 1 – 4 and 6 -18 are pending in the case and are being examined.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 4, 6, 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto [US 5,744,765].

Regarding Claim 1, Yamamoto, Figures 8 -12, discloses an annular dome switch having:

- an upper dome sheet [5];
- an underlying substrate [2];
- wherein the upper dome sheet extends from the underlying substrate defining a raised cross-sectional shape, the raised cross-sectional shape extending at least substantially along a length of an annular shaped path [Figure 9];
- wherein the underlying substrate comprises an annular concentric connection pads [Figure 12, 65A, 65B]; and

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- the upper dome sheet is configured to make electrical contact with the connection pads [65A, 65B] of the underlying substrate when the upper dome sheet is depressed towards the underlying substrate.

Regarding Claim 2, Yamamoto discloses the dome switch surrounds at least one other dome switch [3, 8]. Regarding Claims 3 and 4, Yamamoto discloses the dome switch comprises partial or complete annulus [complete annulus includes a partial annulus]. Regarding Claim 6, Yamamoto discloses a select means [8, 12] is activated upon actuation of the annular dome switch. Regarding Claim 12, Yamamoto discloses an input apparatus comprising an annular\_dome switch as claimed in claim 1. Regarding Claim 18, Yamamoto discloses the activation of the dome switch comprises temporarily modifying the electrically conductive or electrically capacitive properties of an electronic element.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 – 11 and 13 -17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto [US 5,744,765] in view of Chandler [US 4,246,452].

Regarding Claim 7-11 and 13-15 and 17, Yamamoto discloses all the elements of claimed invention except for a rotator wheel. Chandler discloses a rotator wheel [22]

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to activate the switches. Yamamoto discloses switch to be an annular switch and Chandler discloses rotator wheel with a planar upper surface, which is exposed and can be accessed by a user. Chandler also discloses use of decoder and processor to detect the rotational movement of the wheel. It would have been obvious to one of ordinary skill in the art to use a rotator wheel, instead of tilting knob in Yamamoto, as suggested by Chandler, so as to provide a directional signal control [Chandler column 2, line 27-28]. Regarding Claim 16, the bridge contact disclosed by Yamamoto though stationary, providing bridge contact on pushing section [33] would be a matter of design choice, so as to reduce number of parts.

### ***Response to Arguments***

6. Applicant's arguments filed 10/20/2008 have been fully considered but they are not persuasive.

Applicant has argued that Claim 1 requires both the pads to be annular. The individual contact points of the Yamamoto are not annular. The Examiner respectfully disagrees. The pad 65B is an annular ring and pads 65A, taken collectively are annular. The Applicant has cited the dictionary definition of the word "annular," which is defined as "pertaining to a ring or rings", and even with that definition, reference satisfies the pads to be annular, as both the pads 65A, and 65B, are the pertaining to a ring.

The Applicant has also argued about selecting switch of Yamamoto operating as an on/off switch and argued that and the Examiner did not consider the reference as a whole, and even with on/off operation, the device need to be tell, which direction it is being tilted. The Applicant did not point to specific paragraph or line numbers, where the

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applicant found support for such conclusion. Yamamoto in column 11, lines 59 - 63, states "However, it is possible to apply the invention to a situation in which the setting switch mechanism is not provided, but only the selecting switch mechanism is provided, which is turned on and off, when tilting lever is operated." The Yamamoto disclosure discusses a separate embodiment, in which selecting switch mechanism works as an on or off switch. There is no mention of direction in that disclosure. As to the 103 rejection, the Applicant has argued that Yamamoto explicitly teaches against the rotation. It is agreed that the Yamamoto discloses switches that operates by tilting a lever, however, Chandler discloses advantages of rotary switch [Chandler, column 2, lines 27-28] and one of ordinary skill in the art will be motivated to modify Yamamoto to have advantage of rotation.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is (571)272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elvin G Enad/  
Supervisory Patent Examiner, Art Unit 2832

/Marina Fishman/  
Examiner, Art Unit 2832  
November 17, 2008